

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

BENJAMIN A. WAGNER,	)	
	)	
Plaintiff,	)	
vs.	)	NO. CIV-15-1280-HE
	)	
GARFIELD COUNTY DETENTION	)	
CENTER, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff Benjamin A. Wagner, a state prisoner appearing *pro se*, filed his § 1983 complaint, along with an application seeking leave to proceed *in forma pauperis* (“*ifp*”). Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred for initial proceedings to Magistrate Judge Gary M. Purcell, who has recommended that the action be dismissed without prejudice due to plaintiff’s failure to comply both with the court’s order to pay an initial partial filing fee of \$12.10 and with the local court rule requiring that parties notify the court of any change of address. *See* LCvR5.4(a).

The magistrate judge had granted plaintiff’s motion to proceed *ifp*, but advised plaintiff that he would be required to pay the full \$350 filing fee, beginning with an initial partial payment of \$12.10 by December 7, 2015. Plaintiff was told that if he failed to pay the initial fee or show cause in writing for not doing so, the action could be dismissed without prejudice. When plaintiff did not pay the initial fee, request an extension of time within which to do so or explain his noncompliance with the court’s order, the magistrate judge issued a Report and Recommendation recommending that the action be dismissed

without prejudice. The magistrate judge also noted that several court orders that had been mailed to plaintiff at his last known address had been returned as being “not deliverable as addressed” and that the Post Office had been “unable to forward” the documents. *See* Doc. Nos. 5, 6. He concluded that plaintiff’s failure to comply with the local court rule requiring litigants, including *pro se* litigants, to notify the court of changes in their mailing addresses, see LCvR5.4, was another basis for dismissing the action.

Plaintiff failed to object to the magistrate judge’s Report and Recommendation and thereby waived his right to appellate review of the issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996); *see* 28 U.S.C. §636(b)(1)(C). Accordingly, the court **ADOPTS** Magistrate Judge Purcell’s Report and Recommendation and dismisses this action without prejudice.

**IT IS SO ORDERED.**

Dated this 19th day of January, 2016.

  
JOE HEATON  
CHIEF U.S. DISTRICT JUDGE